1242

SUPREME COURT OF THE UNITED STATES.

No. 215.

RUEL C. GRIDLEY, CLARISSA H. BEEBE, SARAH P. SNYDER, AND CHARLES SNYDER, APP'TS,

vs.

DAVID WYANT,

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE NORTHERN DISTRICT OF IOWA.

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[1] UNITED STATES OF AMERICA,
District of Iowa.

In the district court of the United States for the district of Iowa, northern division, the following proceedings were had, to wit:

Declaration in Right.

United States of America, District Court for the State of Iowa, held at Dubuque.

RUEL C. GRIDLEY, CLARISSA H. BEEBEE, Sarah P. Snyder, and Charles Snyder, Plaintiffs,
vs.
DAVID WYANT, Defendant.

Ruel C. Gridley, Clarissa H. Beebee, Sarah P. Snyder, and Charles Snyder, her husband, complain of David Wyant in a plea of right.

And for cause of said claim the said plaintiffs aver that said Ruel C. Gridley is a citizen of the State of California, and Clarissa H. Beebee and Sarah P. Snyder, and Charles Snyder, her husband, are citizens of the State of Missouri, and said David Wyant is a citizen of the State of Iowa; and said plaintiffs, on the first day of January, 1850, at the county of Jackson, and said State and district, had a valid subsisting interest in, and were entitled to the immediate possession of the northwest quarter of section twenty-six, and the northeast quarter of the southeast quarter of section twenty-two, in township eighty-four, (84,) north, range six
[2] (6) east, of the fifth principal meridian; and said defendant on that day, and from thence hitherto, entered upon the said tract of land and deforces the plaintiffs from the possession thereof, to their damage of two thousand dollars; and the plaintiffs aver that said land is of the value of two thousand dollars and upwards; and they pray for judgment for the recovery of the possession of, said tracts of land, and each of them, and their damages for the use and occupation of the same, to wit, two thousand dollars.

WHITAKER & GRANT,
For Plaintiffs.

Endorsed: Filed 1 Oct'r, 1856.
T. S. PARVIN, *Clerk.*
By JAMES M. McKINLAY,
His Deputy.

Summons was issued and served personally.
[REC. CCXV, D. T., 1859.]—1

Answer.

And the defendant says that at the time mentioned in petition, or at any other time, plaintiffs did not have a valid subsisting interest in, and were not entitled to, the present possession of the lands in petition mentioned, or any part thereof; that plaintiffs have suffered no damages at his hands; that the lands are not of the value in the petition set forth; and that the plaintiffs are not entitled to have the lands, or any part.

SMITH, McKINLAY & POOR,
Attorneys for Def't.

Defendant files herewith a bill in chancery relating to the matters of the petition, and against the plaintiffs therein.

SMITH, McKINLAY & POOR,
Attorneys for Def't.

Endorsed: Filed 3 March, 1857.
T. S. PARVIN, *Clerk.*
By JAMES M. McKINLAY,
His Deputy.

[3] *Bill in Equity.*

January Term, 1857—Northern Division.

DAVID WYANT
v.
RUEL C. GRIDLEY et al.

To the Judge of the District Court for the district of Iowa:

David Wyant, of Jackson county, and a citizen of the State of Iowa, brings this his bill against Ruel C. Gridley, a citizen of the State of California, and Clarissa H. Beebee and Sarah P. Snyder, and Charles Snyder, her husband, citizens of the State of Missouri, their places of abode not being known to your orator.

And thereupon your orator complains and says, that the said defendants have now pending in this court against your orator an action of right for the northwest quarter of section twenty-six, and northeast quarter of southeast quarter of section twenty-two, in township eighty-four north, of range six east, of 5th principal meridian; and, though that your orator is the owner of said lands, as hereinafter set forth, yet that your orator's defence at law is uncertain, and your orator can only have adequate and certain protection in a court of equity, as will more fully appear by the facts hereinafter set forth.

That heretofore, to wit, on the 12th day of September, 1846, one William B. Beebee purchased with his own money of Appleton A. Schramling the southwest quarter of the northwest quarter of said sec'n twenty-six for the consideration of fifty dollars,

which sum was paid by said William B. Beebee to said Scramling, and a conveyance was then executed by said Scramling and delivered to said William B. Beebee by him, which conveyance is hereto annexed, marked Exhibit A, and made part of this bill; said conveyance was made to Sarah Ann Blakely, and she held the land in trust for said William B. Beebee, and not otherwise.

Afterwards, to wit, on the 28th of October, 1846, said
[4] William B. Beebee bought with his own money, of one James H. Beebee, the said northeast quarter of southeast quarter of section twenty-two, for the sum of fifty-four dollars, which sum was paid by said William B. to said James H., and that said James H. Beebee, and Lucy A. Beebee, his wife, then made a deed of said land, and delivered the same to said William B. Beebee, which deed is hereto annexed marked Exhibit B, and made part of this bill. Said deed conveyed said northeast of southeast of section twenty-two to Sarah Ann Blakey, and she held the land therein conveyed in trust for said William B. Beebee, and not otherwise.

And afterwards, to wit, on the 25th day of May, 1848, said William B. Beebee sold said NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of sec. 22, said SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ of sec. 26, and said N. $\frac{1}{2}$ of NW. $\frac{1}{4}$ of sec. 26, to your orator for the sum of nine hundred dollars, which said sum was paid by your orator to said William B. Beebee; and in accordance with such sale, the said Sarah Ann Blakely in her own name, without the addition of the character in which she held and intended to have conveyed said land, executed to your orator a deed of said lands, intending thereby to pass to your orator an absolute fee simple title to said lands.

That said William B. Beebee then resided in Jackson county, in the State of Iowa, and said Sarah Ann in the county of Marion, in the State of Missouri; and the said omission of the character in which she held and conveyed said land, arose from the ig-
[5] norance and oversight of the parties. The deed from said Sarah Ann to your orator is hereto annexed, marked Exhibit C, and made part of this bill.

And your orator further shows, that he is informed and believes that said Sarah Ann, at the time of the execution of said deed, was a married woman, and had a husband then living, and that through the ignorance, mistake and oversight of said Sarah Ann and said William B. Beebee, the said husband did not join in the deed; and that said Sarah Ann, before the first of January, 1850, died. That during her lifetime said Sarah Ann made no claim whatever to said land. That since her death the defendants, claiming to be heirs-at-law of said Sarah Ann, have commenced the aforesaid action of right in this court. Their alleged heirship is not set forth in their petition, but in their proceedings to procure testimony in said action of right.

And so your orator shows that the said Sarah Ann had not, and that the said defendants have not, in truth and in fact, any right to or interest in the said lands, but that the same are in truth the property of your orator.

And as to the southeast quarter of northwest quarter of section 26, your orator states that the title to the same was in the said Sarah Ann Blakely, for that that land was purchased of the United States after the death of Said Sarah Ann by one Abraham Miller; and so far as your orator is now advised, he does not require the aid of the equity side of this court in regard to said southeast of northwest quarter of 26; but because of your orator being necessitated to file this bill without being able fully to learn his position in regard to the same, he prays leave to file hereafter, if need be, any bill concerning the same.

Your orator prays that he may be declared to be the owner of said lands; that the defendants be perpetually enjoined from proceeding with said action at law; that they be forever barred from setting up or pretending title to said lands or any part
[6] thereof, and that they be called on to answer or plead to this bill. The complainant waives an answer under oath.

And may your orator have such other and further relief as to your honor shall seem meet.

SMITH, McKINLAY & POOR,
Sol'rs and Counsel for Complainant.

Exhibit A.

Know all men by these presents that I, Avery Scramling, of the county of Jackson and Territory of Iowa, in consideration of the sum of fifty dollars to me in hand paid by Sarah Ann Blakely, of Hannibal, Missouri, have granted, bargained, and sold, and do hereby grant, bargain, sell, and convey, unto the said Sarah Ann Blakely the following premises situate in the county of Jackson, and Territory of Iowa, and bounded as described as follows:

Being the southwest quarter of the northwest quarter of section No. twenty (26) six, in township No. eighty (84) four, of range No. six (6) east, containing forty acres; to have and to hold said premises with the appurtenances unto the said Sarah Ann Blakely, her heirs and assigns forever; and the said Avery Scramling, for himself and heirs, doth hereby covenant with the said Sarah Ann Blakely, her heirs and assigns, that he is lawfully seized of the premises aforesaid, and hath lawful right and authority to convey the same; that the premises are free and clear from all incumbrances whatsoever, and that he will forever warrant and defend the same, with the appurtenances, unto the said Sarah Ann Blakely, her heirs and assigns, against the lawful claims of all persons whomsoever.

[7] In testimony whereof, the said Appleton Scramling has hereunto set his hand and seal this twelfth (12) day of September, anno Domini 1846.

APPLETON A. SCHRANLING. [L. S.]

Executed in the presence of—
JAMES WESTBROOK,
J. M. ALLEN.

TERRITORY OF IOWA,
Jackson County, ss.

Be it remembered, that on this the twelfth day of September, in the year of our Lord eighteen hundred and forty-six, before me, a justice of the peace within and for the county aforesaid, personally came the within named Avery Scramling, personally known to me to be the person whose name is subscribed to the foregoing instrument of writing, as having executed the same, and acknowledged the same to be his act and deed for the purposes therein mentioned.

Taken and certified the day and year aforesaid.

JAMES WESTBROOK,
Justice of the Peace.

Recorded Nov. 26th, 1846.

JOHN RICE,
Recorder.

Exhibit B.

Know all men by these presents that I, James H. Beebe, and Lucy Beebe, wife of the said Jas. H. Beebe, of the county of Jackson, and State of Iowa, in consideration of the sum of fifty-four dollars in hand paid by Sarah Ann Blakey, of Hannibal, Missouri, have granted, bargained, and sold, and do hereby grant, bargain, sell, and convey, unto the said Sarah Ann Blakey, the following premises situate in the county of Jackson, and State of Iowa, *of Iowa*, bounded and described as follows: Being the northeast quarter of the southeast quarter of section twenty-two (22) in township eighty-four (84) of range six (6) east, containing forty (40) acres; to have and to hold said premises, with the appurtenances,
[8] unto the said Sarah Ann Blakey, her heirs and assigns forever; and the said Jas. H. Beebe, for himself and heirs, doth hereby covenant with the said Sarah Ann Blakey, her heirs and assigns, that he is lawfully seized of the premises aforesaid, and hath lawful right and authority to convey the same; that the premises are free and clear from all incumbrances whatsoever, and that he will forever warrant and defend the same, with the appurtenances, unto the said Sarah Ann Blakey, her heirs and assigns, against the lawful claims of all persons whomsoever.

In testimony whereof the said Jas. H. Beebe, and Lucy Beebe, his wife, have hereunto set their hands and seals this twenty-eighth day of October, anno Domini 1846.

JAMES H. BEEBE, [L. S.]
LUCY A. BEEBE. [L. S.]

Executed in the presence of—
JAMES WESTBROOK,
F. M. S. LITTLE.

STATE OF IOWA,
Jackson County, ss.

Be it remembered, that on this twenty-eighth day of October, in the year of our Lord eighteen hundred and forty-six, before me, a justice of the peace within and for the county aforesaid, personally came Jas. H. Beebe, and Lucy Beebe, his wife, both personally known to me to be the persons whose names are subscribed to the foregoing instrument of writing, as having executed the same, and severally acknowledged the same to be their act and deed for the purposes therein mentioned; she, the said Lucy Beebe, being by me first made acquainted with the contents thereof, and examined separate and apart from her husband, whether she executed the said deed, and relinquishes her dower to the lands and
[9] tenements therein mentioned, voluntarily, freely and without compulsion or undue influence of her said husband. Taken and certified the day and year aforesaid.

JAMES WESTBROOK,
Justice of the Peace.

Recorded Ja'y 4th, 1847.

JOHN RICE, *Recorder.*

Exhibit C.

Warrantee Deed.

Know all men by these presents, that I, Sarah Ann Blakey, of the county of Marion, and State of Missouri, in consideration of the sum of nine hundred dollars, in hand paid by David Wyant, of Sabula, Jackson county, State of Iowa, have granted, bargained and sold, and do hereby grant, bargain, sell and convey unto the said David Wyant the following premises, situate in the county of Jackson, and State of Iowa, and bounded and described as follows: being the northeast quarter of the southeast quarter of section twenty-two (22), in township eighty-four (84), of range six east, containing forty acres; also the southwest quarter of northwest quarter of section twenty-six, in township eighty-four north, of range six east, containing forty acres; also the northeast quarter of northwest quarter, and northwest quarter of northwest quarter of section twenty-six, township eighty-four north, of range six east,

containing eighty acres; to have and to hold said premises, with the appurtenances, unto the said David Wyant, his heirs and assigns forever. And the said Sarah A. Blakey, for herself and heirs, doth hereby covenant with the said David Wyant, his heirs and assigns, that she is lawfully seized of the premises aforesaid, and hath lawful right and authority to convey the same; that the premises are free and clear from all incumbrances whatsoever; and that she will forever warrant and defend the same, with the
[10] appurtenances, unto the said David Wyant, his heirs and assigns, against the lawful claims of all persons whomsoever.

In testimony whereof the said Sarah Ann Blakey has hereunto set her hand and seal, this first day of June, A. D. 1848.

SARAH A. BLEAKLEY. [SEAL.]

Sealed, signed and delivered in presence of—
A. B. WEBB,
JOHN HORR.

STATE OF MISSOURI,
County of Marion, ss.

Be it remembered, that on this sixth day of June, eighteen hundred and forty-eight, before me, the undersigned, judge of the Hannibal court of common pleas, in the county of Marion, in the State of Missouri, came Sarah A. Bleakley, who is known personally to me to be the same person whose name is subscribed to the foregoing deed as party thereto, and she acknowledged the same to be her act and deed for the purposes therein mentioned.

Given under my hand, as judge of the said court, this sixth day of June, in the year 1848.

THOMAS VANSWEARINGEN.

STATE OF MISSOURI,
County of Marion, ss.

I, Charles D. Bourne, clerk of the Hannibal court of common pleas, at the city of Hannibal, in the said county of Marion, do certify that the Hon. Thomas Swearingen, whose name is subscribed to the above certificate of acknowledgment, is now, and was
[11] at the time of signing the said certificate, the judge of the court aforesaid, duly commissioned and sworn, and that full faith and credit are due all his official acts as such.

In testimony whereof I have hereunto subscribed my name and
[L. S.] affixed the seal of said court, at office in Hannibal, the sixth day of June, A. D. 1848.

CHARLES D. BOURNE, *Clerk.*

Filed for record Nov. 16th, A. D. 1848, at 11 o'clock a. m.
S. S. FENN, *Recorder.*

Recorded Dec. 6th, A. D. 1848, in book "D," page 30.
S. S. FENN, *Recorder.*

The bill is endorsed: Filed 3 March, 1857.
T. S. PARVIN, *Clerk.*
By JAMES M. McKINLAY, *his Deputy.*

Record Entry.

Wednesday, 4 March, 1857.

RUEL C. GRIDLEY et al.
vs. } 7.
DAVID WYANT.

The parties not having been able to prepare the case for trial at this term, this cause was continued by consent.

Demurrer.

DAVID WYANT
vs.
RUEL C. GRIDLEY, CLARISSA H. BEEBE, SARAH P. SCHNEIDER, and CHARLES SCHNEIDER, her husband.

The said defendants, by protestation, not confessing or acknowledging any of the matters of said bill to be true, doth demur to the same, and for cause of demurrrer shows:

[12] First. That from the showing of said bill one William B. Beebe, therein named, is a necessary party to said bill, and he is not made a party thereto.

Second. Because the said complainant has not by his bill made such a case as will entitle him to the discovery or relief sought.

Third. Because, by the plaintiff's own showing, William B. Beebe, under whom the plaintiff claims, voluntarily caused the lands described in the bill to be conveyed to the defendants' ancestor, and no assent on her part to hold said lands as trustee, and no act of hers to constitute her a trustee is set forth in the said bill in such manner and form as to make her a trustee, and entitle the plaintiff to ask of this court relief against her heirs.

Fourth. Because if she were a trustee she could make no deed without her husband joining with her in the conveyance.

Fifth. The bill dispenses with the defendants' answer under oath.

Wherefore the defendants pray for the judgment of this court, whether they shall be commanded to make any further answer to said bill; and that the same may be dismissed.

JAMES GRANT, *for Defendants.*

Endorsed: Filed 20 March, 1857.
T. S. PARVIN, *Clerk.*
By JAMES M. McKINLAY, *his Dep'y.*

1447

Joinder in demurrer set for hearing 1st Monday in May.
SMITH, McKINLAY & POOR,
For Pl'ff.

Record Entries.

Tuesday, July 7th, 1857.

RUEL C. GRIDLEY et al.
vs.
DAVID WYANT. } 7. Right.

Now come the parties, by their attorneys, James Grant
[13] for plaintiffs, and Smith, McKinlay & Poor for defendant, and by consent of parties this cause is continued.

DAVID WYANT
vs:
RUEL C. GRIDLEY et al. } 13. In Chancery.

In this cause the parties appear by their counsel, Smith, McKinlay & Poor for complainant, and Grant for defendants; def'ts file answer to complainant's bill; leave is granted to complainant to take depositions generally, and the cause is continued.

Answer.

The joint and several answer of Ruel C. Gridley, Clarissa H. Beebe, Sarah P. Schneider, and Charles Schneider, to the bill of complaint of said David Wyant.

These defendants, reserving to themselves all manner of exceptions to the said bill of complaint, say: That it is true that David Wyant is a citizen of Jackson county, Iowa, and that said Ruel C. Gridley is a citizen of California, and said Clarissa H. Beebe, Sarah P. Schneider, and Charles Schneider are citizens of Missouri; that Charles Schneider is the husband of Sarah P.; that said defendants have now pending on the law side of said court an action of right for the northwest quarter of section twenty-six, and the northeast quarter of the southeast quarter of section twenty-two, in township eighty-four north, range six east, of the fifth principal meridian, situated in Jackson county, in said State. And these defendants have amended their petition in said suit so as to omit the southeast quarter of said northwest quarter of section twenty-six, to which these defendants make no claim; but these defendants do claim the balance of said lands, and aver that the value thereof is two thousand dollars and upwards. These defendants deny that said defendant (pl'ff) is the owner of the north half and southwest quarter of the northwest quarter of said
[14] section twenty-six, and the northeast quarter of the southeast quarter of said section twenty-two.

These defendants deny that heretofore, to wit, on the 12th day of September, 1846, one William B. Beebe purchased with his own money, of Appleton A. Scrambling, the southwest quarter of the

northwest quarter of said section twenty-six, for the consideration of fifty dollars, or any other sum. They deny that the purchase-money was paid by Beebe in his own right to Schrambling; they say that a conveyance was made to Sarah Ann Blakely in her own right and for her own benefit, and that she furnished the purchase-money for said lands, and never held the same in trust for said Beebe.

These defendants, further answering, deny that William B. Beebe, on the 28th of October, 1846, bought with his own money, of one James H. Beebe, the said northeast quarter of the southeast quarter of section twenty-two, for fifty-four dollars. They deny that William B. Beebe paid the said purchase-money in his own right. They admit that Sarah Ann Blakely purchased said land with her own money, by Wm. B. Beebe as her agent; that she paid the purchase-money therefor in her own right; that she held the same in her own right, and in no manner as trustee of William B. Beebe. They deny that on the first day of February, 1847, said William B. Beebe purchased of the United States, and paid for with his own money, the north half of the northwest quarter of said section twenty-six, but say that the same was purchased by said Sarah Ann Blakely, with her own money and in her own right; that she never held the said land in trust for said William B. Beebe.

And further answering, these defendants say, that said William B. Beebe, prior to the 12th of September, 1846, had married Clarissa H. Beebe, one of these defendants, and daughter of said Sarah Ann Blakely by a former husband, whose name was Gridley; that the said Sarah Ann Blakely, being desirous of providing for the welfare of her daughter, furnished the said William B.
[15] Beebe with sums of money, from time to time, to purchase land in the name of said Sarah Ann Blakely, and on or about the fifth of September, 1846, she gave to said William B. Beebe a power of attorney to purchase for her and on her account, in Iowa (then) Territory, two hundred acres of good farming land; of which power of attorney the following is a copy:

Know all men by these presents, that I, Sarah Ann Blakely, of Hannibal, Missouri, in consideration of my love and affection for my daughter, Clarissa H. Beebe, and to provide for her future support and welfare, reposing full confidence in the integrity and business capacity of her husband, William B. Beebe, I do hereby make public and appoint the said William B. Beebe to be my legal and authorized agent and attorney in fact for the following purposes as hereinafter written, viz: to purchase for me and on my account, in Iowa Territory, two hundred acres of good farming land, as his judgment may direct, together with the necessary farming tools, teams and appurtenances for the same, with as much stock of cattle, horses, sheep, hogs and other animals, as he, the

said Beebe, may think right and expedient, for the profit and support of said Clarissa and her heirs, and that the said William B. Beebe is hereby authorized by these presents to conduct, cultivate and manage said lands, when purchased, as to him may seem most conducive to the best interest of said Clarissa, and bargain and sell or exchange the proceeds of said lands and stock for her, the said Clarissa's benefit, and to pay her the proceeds of the same, after deducting the necessary expenses; and the said William B. Beebe is hereby authorized and empowered to bring suit in my name for the recovery of debts, or in my defence of said business as above written, should it hereafter become necessary for him to do so for the protection and security of said property, as
[16] above written. As witness my hand and seal, this fifth day of September, A. D. 1846.

SARAH A. BLAKELY. [SEAL.]

Witnesses:
HENRY AMOS,
B. E. TOWNSEND.

STATE OF MISSOURI,
County of Marion, ss.

Be it remembered, that Sarah A. Blakely, who is personally known to undersigned justice of the peace to be the same person whose name is subscribed to the foregoing deed as a party thereto, this day appeared before me at the county of Marion aforesaid, and acknowledged that she executed the said deed voluntarily, for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and seal, this 30th day of October, A. D. 1846.

JAS. T. McCULLOUGH. [SEAL.]

STATE OF MISSOURI,
County of Marion.

I, Thomas E. Thatcher, clerk of the county court, within and for said county of Marion, do hereby certify that James T. McCullough, esquire, whose name appears to the above and foregoing certificate, is now, and was at the time of making the same, an acting justice of the peace in the county aforesaid, duly commissioned and qualified according to law, and that full faith and credit are due to all his official acts as such.

In testimony whereof, I have hereunto set my hand and annexed my official seal. Done at office in Palmyra, in said county, this 30th day of October, A. D. 1846.

THOMAS E. THATCHER, *Clerk.*

Recorded Jan. 4, 1847.

J. RICE, *Recorder.*

[17] STATE OF IOWA,
Jackson County.

I, John Pope, recorder in and for said county of Jackson, do hereby certify the foregoing transcript to be a true and correct copy of the record of the foregoing instrument as recorded in book B, on pages 136 and 137, of the records of my office.

Bellview, Jackson county, Iowa, March 18th, 1856.

JNO. POPE, *Recorder.*

And these defendants aver, that said William B. Beebe purchased the said tracts of land of Schramling, Jas. H. Beebe, and the United States, and took the titles thereto in the name of said Sarah Ann Blakely, under and by virtue of said power of attorney, and not otherwise; and from the date of said power of attorney until a new one was given as hereinafter set forth, the said William B. Beebe purchased no other lands for and in the name of said Sarah Ann Blakely, in Iowa Territory, and the purchases of said northeast quarter of southeast quarter of section (22) twenty-two, and north half and southwest quarter of the northwest quarter of section twenty-six, comprising all the purchases made by said William B. Beebe in Iowa Territory, up to the date of the alleged sale by said Beebe, as the agent of Sarah Ann Blakely, to said David Wyant. And these defendants deny that said William B. Beebe, in his own right, on the 25th of May, 1848, sold said northeast quarter of the southeast quarter of section twenty-two, and said north half and soutweast quarter of the northwest quarter of section twenty-six, to said David Wyant. They deny that in accordance with such sale, the said Sarah Ann Blakely in her own name, without the addition of the character in which she held and intended to have conveyed said land, executed a deed to the plaintiff, intending thereby to pass to the plaintiff an absolute fee simple title to said lands. They admit that Beebe and his wife re-
[18] sided in Jackson county, Iowa, and Sarah Ann Blakely in Marion county, Missouri; they deny that there was any omission of the character in which she held and conveyed said land, and deny that such omission arose from the ignorance or oversight of the parties.

They deny that the deed referred to in said bill was executed by Sarah Ann Blakely.

And these defendants say, that in May, 1848, the said William B. Beebe, without any lawful authority on the part of Sarah Ann Blakely, undertook, as her agent, to contract with said David Wyant for the sale of said lands, and the following is a copy of the agreement, (the name of said Blakely being therein written Blakey,) which he made as such attorney with David Wyant.

Bond for a Deed of Conveyance from Mrs. Sarah Ann Blakey to Mr. David Wyant.

Know all men by these presents, that whereas David Wyant, of Sabula, Jackson county, and State of Iowa, having paid to Mrs. Sarah Ann Blakey, of Hannibal, Marion county, State of Missouri, the sum of four hundred fifty dollars, and also executed to the said Blakey two promissory notes for two hundred and twenty-five dollars each, signed by David Wyant and Aaron Wyant, and due in one and two years from the first of January, A. D. 1849: Now, therefore, in consideration of the above mentioned sum of four hundred fifty dollars, and the said promissory notes—the receipt of said notes and money is hereby acknowledged by the said Blakey—the said Blakey hereby binds herself, her heirs, assigns, executors and administrators, to make and execute a warrantee deed to the said David Wyant of the following described land, lying and being situate in Union township, Jackson county, and State of Iowa, as follows: being the southwest quarter of northwest quarter of section twenty-six, in township (84) north, of range six east, con-
[19] taining forty acres; also the northeast quarter of northwest quarter and northwest quarter of *of* northwest quarter of section twenty-six, township 84 north, of range six east, containing eighty acres; also the northeast quarter of the southeast quarter of section twenty-two, in township 84, of range six east, containing forty acres, be the same more or less. The condition of the above bond is such, that if the said Sarah Ann Blakey, or her assigns, heirs or executors, shall fail to execute to the said David Wyant a good and sufficient warrantee deed of the above bargained, sold and described lands within six months from the date hereof, then the said Sarah Ann Blakey, by these presents, is firmly held and bound unto the said David Wyant in the penal sum of eighteen hundred dollars, the payment of which well and truly to make unto the said David Wyant, his heirs and executors forever: Provided, always, and these presents are upon this express condition, that if the said Sarah Ann Blakey shall make and execute to the said David Wyant a deed of the within described lands as within written, then this obligation shall be void and of no effect; otherwise of full force and virtue; as witness my hand and seal this day of May, A. D. 1848.

SARAH ANN BLAKEY, [L. S.]
By her Attorney, WM. B. BEEBE.

Signed in presence of—

And these defendants deny that said William B. Beebe made or undertook to make any other contract with David Wyant than the one above set forth, and that was void for want of authority.

And these defendants say, that the deed of said lands, which purports to be made from Sarah Ann Blakely, was made a part of,

and in pursuance of said contract, by William B. Beebe as her attorney.

And these defendants admit, that at the time of the pretended execution of said deed, purporting to be from Sarah Ann Blakely to David Wyant, that she was a married woman, and her
[20] husband was then living, and any deed made by her without her husband joining therein was void, and could pass no title to said defendant, and was not made through any mistake, ignorance, or oversight of the fact that she was a married woman, and there was no such reason as that for her husband not joining in said deed, and if from mistake of the law the plaintiff is without remedy.

And these defendants say, that on the first day of June, 1848, on the same day of the date of the deed purporting to be executed from Sarah Ann Blakely to David Wyant, and acknowledged before the same officer, the said William B. Beebe, discovering that he had no authority to sell land under the first power of attorney, did procure from said Sarah Ann Blakely another power of attorney to buy and sell four hundred acres of land, for the same purpose as the first power of attorney.

The following is a copy of said last named power of attorney:

Know all men by these presents, that I, Sarah Ann Blakey, of Hannibal, Marion county, Missouri, in consideration of my love and affection for my daughter, Clarissa Beebe, and to provide for her future support and welfare, and reposing full confidence in the integrity and business capacity of her husband, Wm. B. Beebe, I do hereby make public and appoint the said Wm. B. Beebe to be my legal and authorized agent and attorney in fact for the following purposes, viz: to purchase, bargain, and sell for and on my account, goods, wares, and merchandise, and also to purchase four hundred acres of good farming land, more or less, in the State of Iowa, as his the said Beebe's judgment may decide, together with all necessary tools, teams, and appurtenances for the same, with as much stock of cattle, horses, hogs, and other animals, *and* as the said Beebe may deem expedient for the profit and support of the said Clarissa and her heirs, or as shall be, in his judgment, most conducive and profitable. And the said W. B. Beebe is
[21] hereby fully empowered and authorized by these presents to purchase, sell, convey, and bargain, cultivate, and manage said lands, business property, both real and personal, for and on my account, and the proceeds of the same for the said Clarissa's benefit, and to pay to her the avails or proceeds of the same after deducting all necessary expenses in conducting said business as above written; and the said Beebe is also hereby authorized to bring suit at law in my name for the recovery of debts, or in the defence and for the protection of said business and property as above written.

In testimony whereof, I have hereunto set my hand and seal, this 1st day of June, A. D. 1848.

SARAH ANN BLEAKLEY. [SEAL.]

Witness by—

STATE OF MISSOURI,
County of Marion, ss.

Be it remembered, that on this sixth day of June, eighteen hundred and forty-eight, before me, the undersigned, judge of the Hannibal court of common pleas, in the county of Marion, in the State of Missouri, came Sarah A. Blakeley, who is personally known to the undersigned to be the same person whose name is subscribed to the foregoing power of attorney as party thereto, and she acknowledged the same to be her act and deed for the purposes therein mentioned.

Given under my hand, as judge of said court, this sixth day of June, in the year 1848.

THOMAS VANSWEARINGEN.

STATE OF MISSOURI,
County of Marion, ss.

I, Charles D. Bourne, clerk of the Hannibal court of com-
[22] mon pleas, at the city of Hannibal, in the said county of Marion, do certify that the Hon. Thomas Vanswearingen, whose name is subscribed to the above certificate of acknowledgment, is now, and was at the time of signing said certificate, the judge of the court aforesaid, duly commissioned and sworn, and that full faith and credit are due all his official acts as such.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at office in Hannibal, the 6th day of June, A. D. 1848.

[SEAL.]

CHARLES D. BOURNE, *Clerk.*

These defendants admit that Sarah Ann Blakely died before the first of January, 1850. They deny that during her lifetime she made no claim whatever to said land.

They admit that since her death they have commenced the aforesaid action of right, and that said Ruel C. Gridley, Clarissa H. Bebee, and Sarah P. Schneider are the sole heirs-at-law of said Sarah Ann Blakely, and as such heirs claim said land, and Charles Schneider is the husband of said Sarah.

And these defendants deny that said Sarah Ann Blakely had not, and that these defendants have not, in truth and in fact, any interest in said lands; they deny that the same and in truth the property of said plaintiff.

And these defendants further answering, say that said lands are of the value two thousand dollars and upwards.

And these defendants say, that at the time of the purchases of these lands, and the conveyances to Sarah Ann Blakely, and from that time to the alleged sale and conveyance to Wyant, the said William B. Beebe was largely in debt; and if it were true that William B. Beebe furnished the purchase-money therefor, which these defendants utterly deny, and the title taken in the
[23] name of said Sarah Ann, it was done by said Wm. B. Beebe to prevent his creditors from reaching the property, and neither he nor his vendee can have any claim on Sarah Ann Blakely or her heirs for the same, and these defendants insist that said Wm. B. Beebe is a necessary and proper party to this proceeding.

And further answering, these defendants say, that if it were true that said William B. Beebe purchased said lands with his own money, and caused the same to be conveyed, as his own voluntary act, to Sarah Ann Blakely, that there was no memorandum in writing between the parties before or at the time of said conveyances, to take the same out of the statute of frauds, and no evidence of the same can be received in this court.

And they insist, from the case as made by said plaintiff, that he is not entitled to any relief in this court; that from his own showing the said Wm. B. Beebe, under whom he claims, voluntarily, without accident, mistake, or fraud on the part of Sarah Ann Blakely, caused the deeds to these lands to be made to her, and there can be no resulting or implied trust in his favor in such a case.

And these defendants having fully answered said bill, are ready to prove their answer as this court shall direct, and pray to be hence dismissed with costs.

RUEL C. GRIDLEY,
CLARISSA H. BEEBE,
SARAH P. SCHNEIDER,
CHARLES SCHNEIDER.

JAS. GRANT, *Sol'r.*

STATE OF MISSOURI,
County of Marion, ss.

Be it remembered, that on this the twenty-fifth day of April, A. D. 1857, came before me, Jonathan Gore, judge of the Hannibal probate court, (the same being a court of record in and for Marion county, in the State of Missouri,) Clarissa H. Beebe, Sarah
[24] P. Schneider and Charles Schneider, of Hannibal, Missouri, and subscribed and made oath that the facts stated in the foregoing answer are true.

Sworn to and subscribed before me, the date above written.

[L. S.] Given under my hand and seal, this first day of May, A. D. 1857.

JONATHAN GORE.

Endorsed: Filed July 7, '57.

T. S. PARVIN, *Cl'k.*

General Replication.

The said David Wyant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

SMITH, McKINLAY & POOR,
Sol's for Comp't.

Endorsed: Filed July 7, '57.

T. S. PARVIN, *Cl'k.*

(*Depositions for Def'ts.—Notice and Commission omitted to save copying.*)

Depositions of witnesses produced, sworn and examined, the 13th day of June, A. D. 1857, at Sabula, Jackson county, Iowa, under and by virtue of a commission issued out of the United States [25] district court for the district of Iowa, in a certain cause therein depending and at issue between David Wyant, plaintiff, and Ruel C. Gridley et al., defendants, as follows:

Lewis Carman, of Jackson county, Iowa, being duly sworn, pursuant to the directions hereto annexed, and examined on the part of the defendants, doth depose and say as follows, viz:

1. What is your age, place of residence, and occupation?

I am 49 years old; a farmer, residing near Sabula, in Jackson county, Iowa.

2. Do you know the parties to this suit; and if so, how long?

I know David Wyant and Clarissa H. Beebe; have known them since 1844; they were my neighbors. Mr. Beebe was then the wife of Wm. B. Beebe.

3. Did you know William B. Beebe, late of Jackson county,

Iowa? Did you know him from the beginning of the year 1846 until the year 1850? Where did he reside during that time?

I did know William Beebe. I knew him from the beginning of the year 1846 until 1850. He resided in Jackson county, Iowa.

4. State whether or not he was a man of pecuniary responsibility during that time; whether or not he could or did hold property in his own name during that period; and if not, why not.

During all that time he was not a man of any pecuniary responsibility. He did not hold any property in his own name. He was largely in debt, and did not hold property in his own name because his creditors could reach it. He was in debt to Mr. Paulding, and could not pay him. He was in debt to him forty thousand dollars.

5. State whether or not during that period said William B. Beebe was in debt; and if so, whether or not he was insolvent.

He was in debt and insolvent.

[26] Cross-int'y: Do you know or can you set forth any other matter or thing which can be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

I know no other matter or thing which may be a benefit or advantage to the parties to this suit, or either of them.

LEWIS CARMAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 13th day of June, A. D. 1857.

JOHN N. CRAWFORD,
Commissioner.

Appleton A. Scrambling, of Jackson county, Iowa, being duly sworn pursuant to the directions hereto annexed, and examined on the part of the defendants, deposeth and saith as follows, viz:

1. What is your age, place of residence, and occupation?

I am thirty-six years of age; reside in Jackson county, Iowa; am a farmer.

2. Do you know the parties to this suit; and if so, how long?

I know David Wyant and Mrs. Beebe.

3. Did you know William B. Beebe from the beginning of the year 1846 to the year 1850; and where did he reside? How far from you?

I knew William B. Beebe from the beginning of 1846 to 1850. He resided in Jackson county, Iowa, about four miles from me.

4. Did you have during that time any business transactions with him? State whether or not you sold to him during that period a tract of land. If so, describe the tract of land as near as you can. Where is it? Who now occupies it? To whom did

[27] you make the deed? If you did not make the deed to William B. Beebe, why did you not? At whose request did you make the deed for the land? To whom did you make it, and for what reason was the business so done? Did you have any other business transactions with him? if so, what, and to whom was the title made for that property?

About the first of September, 1846, or some time in the early part of September, 1846, I sold Wm. B. Beebe the southwest quarter of northwest quarter of section twenty-six, (26) township eighty-four (84) north, of range six (6) east, containing forty acres. It is a part of the land where David Wyant now lives. I made the deed to Sarah Ann Blakeley, who was said by Beebe to be his wife's mother. I made the deed to her at Beebe's request. He said he was in debt or had a difficulty with one Paulding, and he dare not hold property in his own name, and that was the reason why he wanted the deed made as it was. I also sold him a horse, and he took the title in his wife's mother's name, for the same reason. He never to my knowledge held any property in his own name.

Cross-inter'y: Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

I know nothing further than I have already stated.

APPLETON A. SCHRAMBLING.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 13th day of June, A. D. 1857.

JOHN N. CRAWFORD,
Commissioner.

[28] Enoch A. Wood, of Jackson county, Iowa, being duly sworn pursuant to the directions hereto annexed, and examined on the part of the defendants, doth depose and say as follows, viz:

1. What is your age, place *or* residence, and occupation?

I am 45 years old; reside in Sabula, Jackson county, Iowa; am a merchant.

2. Do you know the parties to this suit; and if so, how long?

I know David Wyant and Mrs. Beebe.

3. Did you know Wm. B. Beebe, late of Jackson county, Iowa? Did you know him from the beginning of the year 1846 until the year 1850? Where did he reside during that time?

I knew Wm. B. Beebe from the beginning of 1846 to 1850. He resided in and near Sabula, Jackson county, Iowa.

4. State whether or not he was a man of pecuniary responsibility during that time; whether or not he could or did hold property in his own name during that period; and if not, why not.

He was not a man of any pecuniary responsibility. He did not hold property in his own name; I suppose because his creditors would reach it.

5. State whether or not during that period said William B. Beebe was in debt; and if so, whether or not he was insolvent.

He was in debt, and insolvent.

6. Do you know Wm. B. Beebe's handwriting? have you seen him write?

I know his handwriting, and have seen him write. Exhibits "A" and "C" are in his handwriting.

Cross inter'y: Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in
[29] question in this cause? If yea, set forth the same fully and at large in your answer.

I know nothing further than I have already stated.

E. A. WOOD.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this thirteenth day of June, A. D. 1857.

JOHN N. CRAWFORD,
Commissioner.

(The other certificate of commissioner omitted to save copying.)

(Exhibit A is the original of what appears on pages 20 and 21; and Exhibit C is the original of what appears on pages 22, 23, and 24.)

Said depositions are endorsed: Opened and filed 29 June, 1857.

T. S. PARVIN, *Clerk.*
By JAMES M. McKINLAY,
His Deputy.

Further Evidence on part of Def'ts.

U. S. District Court at Dubuque.

WYANT vs. GRIDLEY et al., }
and }
GRIDLEY vs. WYANT. }

The said Gridley and others file a certificate of marriage of Sarah Ann Blakely, and a certified copy of divorce between Clarissa H. Beebe and Wm. B. Beebe, which it is agreed may be read without further proof.

It is also agreed that Wm. B. Beebe did not, prior to the date of the deed under which Wyant claims title, enter or purchase in his own right, or that of Sarah Ann Blakely, any other lands in Iowa except those which are the subject of this suit, unless it might be

claims on the public lands of which there was no paper title. The property is admitted to be worth $2,000 00.

July 7, 1857.

JAMES GRANT,
For Gridley and others.
SMITH, McKINLAY & POOR,
For Wyant.

Endorsed: Filed July 7, '57.

T. S. PARVIN, *Cl'k.*

[30] Be it known that the following certificate of marriage appears on record in the county of Marion, and State of Missouri:

IN RECORDER'S OFFICE.

STATE OF MISSOURI,
County of Marion, ss.

These may certify, that on the 18th day of March last I joined in marriage Robert W. Blakely and Sarah Ann Gridley, both of Marion county, and State of Missouri.

Given under my hand this 18th day of June, A. D. 1838, 1838.

GEO. C. LIGHT,
M. G. M. E. C.

Filed for record on this 18th June, 1838.

S. BUCKNER,
Recorder.

STATE OF MISSOURI,
County of Marion, ss.

I, Thomas E. Thompson, clerk of the circuit court, and ex-officio recorder, in and for said county, do hereby certify the foregoing to be a true and perfect copy of a marriage certificate, together with the date of the filing of the same, as fully and completely as the same appears of record in said office, in volume 1, at page 139.

Given under my hand and the seal of said court, at my office in Palmyra, this 2d day of April, A. D. 1857.

[L. S.]

THO. E. THOMPSON, *Clerk.*

Endorsed: Filed July 7, '57.

T. S. PARVIN, *Cl'k.*

Petition for Divorce in the District Court of Alamakee County, State of Iowa, Nov. Term, 1853.

CLARISSA H. BEEBE
vs.
WILLIAM B. BEEBE.

It is ordered and decreed by the court that the said plaintiff, Clarissa H. Beebe, be, and is hereby, divorced from her said husband, William B. Beebe, and restored to all the rights of
[31] an unmarried woman; and it is further ordered and decreed by the court that the said Clarissa H. Beebe have the custody of her infant child, William, until the further order of this court, and that the said defendant, Wm. B. Beebe, pay the costs of this suit.

STATE OF IOWA,
Alamakee County.

I, L. W. Hersey, clerk of the district court in and for said county, do hereby certify the above is a true copy of the order in the above entitled cause, as shown by the record in my office.

In testimony whereof I have hereunto subscribed my name and
[L. S.] affixed the seal of the said court, this 23d day of Nov., 1853.

L. W. HERSEY,
Clerk of D. C.

Endorsed: Filed July 7, '57.

T. S. PARVIN, *Cl'k.*

(Depositions for pl'ff. Notices and commissions omitted, to save copying.)

Exceptions to Plaintiff's Interrogatories to James H. Beebe.

The said defendants object to the 3d interrogatory, because the same is not material to the matter at issue between the parties, and if material, cannot be proved by parol. And the said defendants, not waiving their objections to the questions or answers of said witness, propose to said witness the annexed cross-interrogatories, to explain his direct evidence, if it is admitted by the court.

JAMES GRANT,
Attorney for Def't.

STATE OF IOWA,
Mitchell County, ss.

I, John B. Shipman, clerk of the district court in and for said county, to whom the annexed commission is directed, do
[32] certify, that by virtue and in pursuance of said commission I did cause to come before me, at the clerk's office in the village of Osage, in said county of Mitchell, on the 21st day of September, A. D. 1857, James H. Beebe, of Stacyville, of said county, the witness named in said commission, to be examined as a witness in behalf of the plaintiff, in a certain cause in chancery, pending in the United States district court for the district of Iowa, northern

division, in which David Wyant is plaintiff and Ruel C. Gridley and others are defendants; that I did thereupon put said James H. Beebe on his solemn oath, to answer truly and fully the interrogatories and cross-interrogatories annexed to said commission, and each and every of them. That I have written out said interrogatories and cross-interrogatories, and inserted the answers thereto immediately under the respective questions. That I caused the whole to be signed by the said witness, after first being read over to him in my presence; and I annex hereto the answers so taken and written out by me and subscribed by said witness; and Exhibit A was shown to the said witness.

In witness whereof I have hereto written my name, and affixed the seal of our district court, this 21st day of September, A. D. 1857.

[L. S.]

JOHN B. SHIPMAN, *Clerk.*

1st interrogatory. Do you know David Wyant and William B. Beebee, and did you know Sarah Ann Blakely in her lifetime?

I know David Wyant and William B. Beebee, and have seen Sarah Ann Blakely.

2. Did you ever have any business with them or either of them in relation to a forty acres of land in Jackson county, Iowa, namely, the northeast ¼ of southeast ¼ of sec. 22, in township 84 north, of range 6 east, of 5th p. m.?

[33] I sold Beebee a forty acres in Jackson county, lying about four and one-half miles west of Sabula, some eight or ten years since; the particular description of the land I can't swear to. I made the deed running to Wyant or Mrs. Blakely—I can't remember which—at Beebee's direction.

3. If so, with whom did you transact the business? and if any money was paid to you for that land, state who paid it and whose money it was.

I transacted the business with Wm. B. Beebee; Beebee paid me for it. I can't say whether 'twas paid for in money or other property.

4. If you know any other matter or thing material or likely to be material in behalf of David Wyant, state the same fully.

I don't know that I know anything further about the matter that would be material to Wyant.

JAMES H. BEEBE.

Sub. and sworn to before me, this 21st day of September, A. D. 1857.

JOHN B. SHIPMAN,
Clerk Dist. Ct. Mitch. Co.

1st cross-interrogatory. If you answer the third interrogatory that the land was conveyed by you to Sarah Ann Blakely, examine the

annexed copy of a deed from you to Sarah Ann Blakely, and say if that is a correct copy of the deed you made, and if it describes the land which you sold to Sarah Ann Blakely?

(The copy is the same as appears on pages 8 and 9 as Exhibit B to the bill.)

I can't say whether it is a correct copy or not, or whether the description of the land is correct.

2. How do you know whose was the money? If William B. Beebee paid you the money, did he not, at the time he paid the money and you made the deed, state that the money was furnished by his mother-in-law, Sarah Ann Blakely, for the benefit of his wife, Mrs. Blakely's daughter?

I don't recollect any such statement.

[34] 3. Did you have any contract or bond with Mrs. Sarah Ann Blakely, signed by Wm. B. Beebee as her attorney in fact, or otherwise; did not Wm. B. Beebee, at the time he made the purchase, or at the time he paid the money, or at the time you made and delivered the deed, inform you that he had a power of attorney from Mrs. Sarah Ann Blakely to purchase land for her, and that he was acting in that matter under that power of attorney; and did you not know or understand that he did have a power of attorney and was acting for Mrs. Sarah Ann Blakely?

I had no bond or contract like the one described. I knew that he had a power of attorney from Mrs. Sarah Ann Blakely, or I so understood, but can't tell whether I saw the power of attorney, or was so informed by him or others. I can't say whether anything passed between us in relation to whether he was acting in this matter under that power of attorney or not.

5. If you did not convey the land to Mrs. Sarah Ann Blakely for the reasons above set forth, tell why you sold land to Wm. B. Beebee and made a deed to Sarah Ann Blakely; was it because Beebee was in debt, and did not wish to hold title for fear of his creditors, or because he wished to provide for his wife and children?

I deeded to Mrs. Blakely at Beebee's direction, but don't know the reason why he wanted it so deeded.

JAMES H. BEEBE.

Sub. and sworn to before me, this 21st day of September, A. D. 1857.

JOHN B. SHIPMAN,
Clerk Dist. Ct. Mitchell Co.

Endorsed: Opened and filed 1 Oct'r, 1857.
J. C. BURNS, *Clerk.*
By JAS. M. McKINLAY, *his Deputy.*

[35] DAVID WYANT
vs.
RUEL C. GRIDLEY et al.

Exceptions to the Interrogatories to be proposed to William B. Beebee by the Plaintiff.

Objections by defendants to 1st interrogatory:

The said interrogatory is leading, and points out to the witness the answer to be made.

The defendants except to the second interrogatory because it is not material.

The defendants except to the third interrogatory because it is not material and is leading.

The defendants except to the fourth interrogatory because it is not material and is leading.

The defendants except to the fifth interrogatory because it is not competent to prove the fact by parol. The title can only be proved by writing, and it is not material.

The defendants except to the seventh interrogatory because the object and intention of Sarah Ann Blakely can only be proved by deed or writing, and because the object and intention of David Wyant is not material.

The defendants object to the eighth interrogatory because it is not material.

The defendants object to the tenth interrogatory because it is not material who paid for the land, or of whom it was purchased.

The defendants except to each and all the interrogatories because there is no allegation of fraud on the part of Sarah Ann Blakely, and the plaintiff seeks by parol evidence to vary a written contract.

The defendants except to the testimony of this witness, because it is not competent to contradict the consideration named in the deed after the death of the grantee.

The defendants object to the whole deposition, because the witness is interested in the result of the suit.

JAMES GRANT,
For Defendants.

[36] And the defendants not waiving any right to the exceptions to the interrogatories proposed by the plaintiff, but reserving their right to insist on the rejecting of the answers thereto, and to all answers to questions proposed by them to explain the said direct interrogatories, proposes to said witness the following cross-interrogatories.

JAMES GRANT,
For Defendants.

The 2d and 4th cross-interrogatories are excepted to because they are leading. The first ten lines (82 words) of the 8th cross-int'y excepted to, because leading; also because it is no difference to the

pl'ff whether Beebee was in debt or not. The remainder of the 8th cross-int'y is excepted to because it is immaterial.

SMITH, McKINLAY & POOR,
Sol'rs for Pl'ff.

TERRITORY OF MINNESOTA,
County of Houston.

In compliance with the annexed commission, I caused to come before me, this 9th day of October, 1857, William B. Beebee, of said county, and he being by me duly sworn to answer fully and truly the interrogatories and cross-interrogatories about to be put to him, I then put severally the interrogatories hereto annexed, and he answered as follows:

[37] Township 84 north, of range 6 east, of 5th p. m.

[*For plat see original, page* 43.]

1. Look on the above diagram. Do you know the lands thereon marked with names of persons and dates?

Yes.

2. Did you ever have anything to do with the purchase of said lands, or any part of the same? If so, state what you did, and whose money was used in paying for them.

I did purchase the forty acres in section 22, of the United States government, in the name of James H. Beebe, and he afterwards it conveyed according to my request. The north ½ of the north-west quarter of section *of section* twenty-six was purchased by me of the United States, in the name of Sarah A. Blakey. The [38] forty acres marked with Scramlin's name was part of my claim, but he entered it away from me, and I went and entered one of his forties. We afterwards settled, and he conveyed that forty according to my request. It was my own money that I used in the purchase of these lands. I never had any title to the forty on the plat marked Miller. I bought my claim in section twenty-six from James Wood, and I paid him with my own money.

3. Did Sarah Ann Blakely pay any part of the purchase-money of said lands?

No.

4. Do you remember of selling any lands to David Wyant? If so, state what lands you sold to him, and whether he paid the purchase-money.

I do. I sold him the lands shown on that map, except the forty marked Abm. Miller. Mr. Wyant paid me the purchase-money.

5. In whose name was the title to the lands you sold to David Wyant at the time of your sale to him?

In said Sarah A. Blakey's name.

6. Did Sarah Ann Blakely make a deed of said lands to him; if so, at whose request was it made?

She made a deed of them to Mr. Wyant; it was at my request.

7. What object did you and said Sarah Ann Blakely have in view in making the deed from her to David Wyant? Was it or was it not the intention of you and her to pass a full and perfect title to David Wyant?

We meant to give to Mr. Wyant a full and perfect title to the lands. I had a power of attorney from her; but it was to make the title more sure that she made the deed to him herself.

8. State whether the omission of the name of Mrs. Blakely's husband in the deed was intentional? How did it happen that he did not join in the deed?

The omission of Mr. Blakey's name was not intentional; I never thought about it all, and have *not* doubt she did not. She
[39] acted merely at my request, for she did not pretend to have any interest in the lands. I do not know whether Wyant knew that Mrs. Blakey was married.

9. Where did you live at the time of these transactions, and where did said Sarah Ann Blakely live? Also state what relationship, if any, you bore to the said Sarah Ann.

I lived on these lands at that time, and Mrs. Blakey lived in Hannibal, Mo. Mrs. Blakey was my wife's mother.

10. If you should have forgotten the numbers of the lands you sold to David Wyant, so as to be unable to describe them by numbers, then please to describe them otherwise as specifically as you can, stating as near as you can who they were bought of, when they were bought, who paid for them, and whose money was used in making the payment.

I do not remember the particular Nos. of the land. I bought the claim of Jas. Wood about the year 1846, and paid him about $75 or $100 for it. I entered the lands, or got them from persons who entered them from the U. S. land office. It was my own money I used in buying them. The forty that James H. Beebe entered for me was part of the claim that I bought of Jerry and Enoch Wood about the year '44, and I paid them about nine hundred twenty-five dollars for the whole claim. I paid them with my own funds.

11. If you know anything further material, or likely to be material, in behalf of said David Wyant in regard to said lands, please state the same fully and particularly.

I was in business in Hannibal, Mo. Shortly afterwards I became involved in pecuniary embarrassment; these losses hurt me much, and I quit business and came to Iowa to try farming. I married Clarissa Gridley, a daughter of Sarah A. Blakey. The family, both mother and daughter, were poor and in indigent cir-
[40] cumstances, and I often made the mother of said Clarissa

advances of money and presents to help them all I could, and she allowed me to use her name to buy or sell in, in order to maintain and support herself, her daughter, and her family. Mrs. Blakey being poor and destitute I aided her, and never rec'd one dollar in money, or any assistance from her at any time. I rec'd no property or money from my wife, or by her, directly or indirectly, whatever, to my knowledge or belief, except an old featherbed. The money that I paid for the lands above mentioned and described was obtained by the sweat of my own brow.

WM. B. BEEBE.

And I then put the cross-interrogatories hereto annexed, and he answered as follows:

1. Did you not marry Mrs. Sarah Ann Blakely's daughter Clarissa; and were you not living with Clarissa as your wife in 1846, 1847, 1848, and 1849?

Yes.

2. Did not Mrs. Sarah Ann Blakely furnish you with money to buy the lands which were referred to as an advancement to and for the benefit of her daughter, your wife?

No. She furnished neither money or property.

3. Did you not act under a power of attorney from Mrs. Sarah Ann Blakely in purchasing these lands? Is not the power of attorney under which you purchased these lands dated 5th Sep'r, 1846, and is not the copy hereto annexed, marked Exhibit "A," a correct copy of said power of attorney, and what have you done with said power of attorney? and if you have it, please attach it to your deposition. Is not Mrs. Blakely, who signs her name thereto as Sarah Ann Blakely, the same person who is described in the power of attorney as Sarah Ann Blakey? In other words, is not the person named in said power of attorney, or any
[41] other papers relating to this subject, Mrs. Sarah Ann Blakely, the mother of Ruel C. Gridley, Clarissa H. Beebe, and Sarah P. Schneider?

Yes. I believe the power of attorney was dated the 5th of Sept'r, 1846, and that the copy is correct. I left the original with Geo. Milner, and don't know what became of it, except I have been informed, and have no doubt, that the said Clarissa H. Beebe, formerly my wife, stole and purloined the same from the said Milner. Mrs. Blakey is the same person as is named different ways in this paper, and the mother of Ruel C. Gridley, Clarissa, and Sarah P. Schneider.—(Exhibit A referred to in the above question is the same as the power of att'y on pages 16 and 17.)

4. Did you not inform the person who sold these lands that you were buying them under a power of attorney for Mrs. Sarah Ann Blakely, and for her, and that the titles must be in her name?

I did not tell Enoch, Jerry, or James Wood that I had any power of att'y. I told David Wyant that the titles were in Mrs. Blakey's name.

5. Did you not make a contract with David Wyant for the sale of the lands mentioned in a deed signed by Sarah Ann Blakely to David Wyant? Was not this contract between Sarah Ann Blakely, described by you as Sarah Ann Blakey, executed by you as the attorney of Sarah Ann Blakely? Is not the copy hereto annexed, marked Exhibit B, a copy of that contract?

I did make such a contract. Mr. Wyant sent it to me, and I will give it to be sent attached with this deposition.

6. Was not this contract dated in May, 1848? Did you not afterwards, while you were residing in Jackson county, Iowa, send a deed for the lands, in compliance with this contract, to Mrs. Sarah Ann Blakely to execute, and did you not deliver that deed to Wyant, and take up the bond which you had given to David Wyant in Mrs. Blakely's name, and signed by you as her
[42] attorney; and was not said deed delivered by you to Wyant as a performance of that contract; and was not the contract given up to you? What have you done with said contract? and if you have it, attach it to your deposition.

I sent such a deed to Mrs. Blakey, and when it was delivered to Mr. Wyant we erased the names from the bond, and I paid no more attention to it.

7. Did you not, when you discovered that the first power of attorney given to you by Mrs. Sarah Ann Blakely did not authorize you to sell lands which you might purchase for her, get from her another power of attorney; and what have you done with that, and where is it, and can you tell when it was executed; can you furnish the original, and is not the annexed copy marked Exhibit C correct?

I thought that the first power of att'y did not give me sufficient powers, and caused another to be executed. I left it with Geo. Milner, of Iowa, which was stolen, and went the way of the other papers. To the best of my belief Exhibit C is a correct copy.

8. Were you not, when the purchases of all these lands made by you in the name of Mrs. Sarah Ann Blakely, or Sarah Ann Blakey, meaning Sarah Ann Blakely, your wife's mother, in debt; and was not the money given by you to Mrs. Blakely to purchase these lands intended for the benefit of your wife; and did you not take the deeds in the name of your mother-in-law, Sarah Ann Blakely, to prevent your creditors from reaching the property? And if you answer this question in the negative, state why did you buy land with your own money and have the deed made to Mrs. Blakely.

I was in debt when I bought these lands. Mrs. Blakely gave me no money to purchase the same with, but her name was used

for the purpose mentioned. It was to prevent these lands from being taken to pay old debts that she allowed me to use her
[43] name, and also for the purpose of providing for the support of her daughter.

9. If you state in any of your answers to direct questions, that you furnished money to purchase these lands, or any of them, will you not also state that the money was first given as an advancement to Mrs. Clarissa H. Beebe, your wife, or to you for her as an advancement, and was it not your design in having the deeds made to Mrs. Sarah Ann Blakely to protect the interest of your wife?

I got no money or property from Mrs. Blakey, and none from, by, or through said Clarissa.

10. If you state that you furnished the money to buy these lands, and you took the title in the name of Mrs. Sarah Ann Blakely, was it not a voluntary act on your part? Did you take from her any agreement in writing in relation thereto? and if you did, produce it; and when did you make these purchases, and where was she when you made them?

I had no writing from Mrs. Blakey, except the two powers of att'y, and the deed that she made to Wyan; I acted in the matter voluntarily, as being the best I could do for myself and family.

11. Did you not omit the name of her husband in these deeds and power of attorney, because you did not know that the law required it?

I never thought anything about his name to be used on the deeds, as he was not responsible, and worthless at the time.

12. The purchase-money named in the bond to Wyant is $900, and the same amount is named in the deed. Who received the purchase-money, and what became of it; and was not the bond and the deed part and parcel of the same transaction?

I rec'd the money and used the same for the support of my wife and children. The bond and the deed were parts of the same transaction of the bargain and sale of said lands.

WM. B. BEEBE.

[44] TERRITORY OF MINNESOTA,
County of Houston.

I, L. D. Selfridge, notary public, in and for said county, certify that the foregoing deposition was taken before me at my office, in Brownsville, in said county, this 9th day of October, 1857, and was there and then sworn to by said William B. Beebee, the same having been read over by him, and then signed by him in my presence.

[L. S.] In witness whereof, I *have* hereto sign my name, and affix my official seal the place aforesaid, and date aforesaid.

L. D. SELFRIDGE.

(Exhibit B is the same as on pages 20 and 21; and Exhibit C the same as appears on pages 22, 23 and 24. The bond referred to in the answer to the 5th cross-inter'y is as follows:)

Know all men by these presents, that whereas David Wyan, of Sabula, Jackson county, State of Iowa, having paid to Sarah Ann Blakey, of Hannibel, Marion county, Missouri, the sum of ten dollars, the receipt of the same is hereby acknowledged: Now, therefore, in consideration of the above sum of ten dollars to her in hand paid by said Wyant, and on the further payment of four hundred forty dollars, to be paid down on the execution of a good and sufficient warrantee deed of the following described lands, as hereinafter mentioned, and also at the time of the delivery of said deed, the said David Wyant shall execute two promissory notes for two hundred twenty-five dollars each; said notes shall be signed by David Wyant and Aaron Wyant, and dated on the delivery of said deed, bearing interest till paid, and made payable in one and two yearly payments, commencing from the first day of January, 1849. Now, therefore, in consideration of the above pay-
[45] ments to be made as above written, the said Sarah Ann Blakey hereby binds herself, her heirs, executors and assigns, to make and execute to the said David Wyant a warrantee deed of the following described lands, within forty days from the date hereof, viz., as follows: being situate in Union township, Jackson county, State of Iowa, being the southwest quarter of the northwest quarter of section twenty-six, in township (84) north, of range six east, containing forty acres; also the northeast quarter of northwest quarter, and northwest quarter of northwest quarter, of section twenty-six, township (84) north, of range six east, containing eighty acres; also the northeast quarter of the southeast quarter of section twenty-two, of township 84, of range six east, containing forty acres, be the same more or less. The condition of the above bond is such, that if the said Sarah A. Blakey shall fail to execute said deed as above written, then she is held and firmly bound in the penal sum of twenty dollars, the payment of the same well and truly to be made unto the said David Wyant; but these presents are upon this express condition, that if the said Sarah A. Blakey shall fulfil on her part the conditions as herein written, then this bond shall be void; otherwise of full force and virtue.

As witness our hands and seals, this 27th day of May, A. D. 1848.

SARAH A. BLAKEY, [SEAL.]
Per W. B. BEEBE, *her Attorney.*
DAVID WYANT. [SEAL.]

In presence of—
HENRY GEE,
JOSIAH RICHARDSON.

(The signatures are defaced with a pen.)

Endorsed: Opened and filed 12 Oct'r, 1857.
J. C. BURNS, *Clerk.*
By JAMES M. McKINLAY, *his Deputy.*

[46] (And on the 5th of Jan'y, 1858, James M. McKinlay, one of pl'ff's counsel, filed an affidavit for a continuance, to obtain the testimony of Ben. Townsend, of San Francisco, Cal., as corroborative of the testimony of Wm. B. Beebe; and thereupon James Grant, counsel for def'ts, filed the following admission:)

DAVID WYANT
vs. } 7 and 13.
RUEL C. GRIDLEY et al.

It is admitted by defendant's counsel, that if the facts testified to by Wm. B. Bebee are competent as evidence in the case in relation to the furnishing of purchase money of the lands, that his deposition is sufficient of those facts, without corroboration.

JAS. GRANT,
For Pl'ff.

Endorsed: Filed 5th Jan'y, 1858.
J. C. BURNS, *Clerk.*
By JAMES M. McKINLAY, *his Deputy.*

(And on said 5th of Jan'y, 1858, def't's counsel also filed a duly certified copy of the power of attorney which appears on pages 16, 17 and 18.)

(The following deposition taken on the part of plaintiffs in the law case between the parties, is also on file. Notice, commission, and certificate omitted to save copying.)

Abner O. Nash, of lawful age, being produced, sworn and examined on the part of the plaintiffs, deposeth and saith:

1. What is your age, place of residence, and occupation?

I am fifty-one years of age; my place of residence is in the city of Hannibal, county of Marion, and State of Missouri, where I have lived for the last twenty-five years; my business is that of an acting justice of the peace.

[47] 2. Do you know the parties to this suit, to wit: Ruel C. Gridley, Clarissa H. Beebee, Sarah P. Snyder, and her husband Charles Snyder, plaintiffs, and David Wyant, defendant, and how long?

I am well acquainted with the plaintiffs, Ruel C. Gridley, Clarissa H. Beebe, Sarah P. Schneider, and her husband Charles Schneider, having known them for twenty years. They have lived in the same town with me a great part of this time. I do not know David Wyant, the defendant.

3. State whether or not you were acquainted with the late Sarah

Ann Blakeley, of Hannibal, Marion county, Missouri, and how long?

I was acquainted with Sarah Ann Blakeley, now deceased, late of the city of Hannibal, county of Marion, and State of Missouri; I knew her for about twenty years prior to her death, and lived in the same town with her during this time.

4. State whether she is dead or alive; if dead, when she died; whether or not she was a married woman at the time of her death, and how long she had been married prior to her death. Go back and state the earliest period of your knowledge of her as a married , and how long she continued to be a married woman.

Sarah Ann Blakely is now dead; she died on the 23d day of December, 1850; she was a married woman at the time of her death; when I first became acquainted with her, she was married to one Gridley; Gridley died about the year 1833; she had by Gridley the following children, to wit: Ruel C., Clarissa H., and Sarah P. Gridley, and another child that died while an infant, without name; she remained a widow some years. About the year , she intermarried with one Robert W. Blakely; they lived together as man and wife, treating each other as such, and were so recognised by this community during the lifetime of Mrs. Sarah Ann Blakely. Mrs. Sarah Ann Blakely died December 23d, 1850, leaving no issue by Robert W. Blakely.

[48] 5. State who are her heirs-at-law; state their names in full. If any of them are now married females, state which and to whom such one is married.

Sarah Ann Blakely had by her first husband, Gridley, the following children, to wit: Ruel C., Clarissa H., and Sarah P. Gridley, and a child that died while an infant, without name; the said Ruel, Clarissa, and Sarah were living at the death of Mrs. Blakely, are still living, and are her only heirs-at-law. The said Clarissa H., some twelve years ago, intermarried with one William B. Beebe, and the said Sarah P. intermarried with one Charles Schneider, some four years ago.

Cross-interrogatories.

1. If you state that Sarah Ann Blakeley was a married woman, state how you know it. Were you acquainted with her or her husband? Do you know of any contract or agreement which existed between in relation to the property of them or either of them? State all you know about it.

My means of knowing that Sarah Ann Blakely was a married woman, was from the fact of her living with Gridley during his lifetime, and afterwards with Blakely during her lifetime; she and Gridley treated each other as man and wife, and were so recognised by this community, as long as I knew Gridley, and until his death; and she and Blakely lived together, treating each other as man

and wife, and were recognised by the community from the time of their marriage up to the death of Mrs. Blakely. I knew both of her husbands well, and have often been at Mrs. Blakely's house, both while she was married to Gridley and while she was married to Blakely. I knew her well. I know of no contract of agreement existing between her and either of her said husbands.

2. Has any of the children of said Sarah Ann Blakely died? If so, give their names; also give the names of all her children.

[49] None of the children of Sarah Ann Blakely have died, to my knowledge, except infant before alluded to. The names of her children living at her death, and now living, so far as I know, are the said Ruel C. Gridley, Clarissa H. Beebe, and Sarah P. Schneider.

3. Did you ever hear of any of said children speak of any marriage contract which existed or had existed between their mother and any person; if so, which of them spoke of it; when and where was the conversation or conversations, and who were present?

I never heard either of said children speak of any marriage contract between their mother and any other person.

4. Did you ever hear Sarah Ann Blakely say anything in relation to the pecuniary circumstances of W. B. Beebee, and her desire to assist him in his difficulties; if so, what did she say; when and where was the conversation had, and who were present?

I never heard Sarah Ann Blakely speak of the pecuniary circumstances of Will. B. Beebe, or that she had a desire to assist him in his difficulties.

5. This is an action of right against David C. Wyant concerning lands in Iowa. State whether you know anything material, or likely to be material, in behalf of said Wyant; and if you do, then state the same fully and particularly.

I know of nothing material or beneficial to said Wyant in this suit.

And further this deponent saith not.

ABNER O. NASH.

Record Entries.

6 January, 1858.

DAVID WYANT
v. } 7 and 13.
RUEL C. GRIDLEY et al.

This cause comes on to be heard. Pl'ff appears by McKinlay and Poor, his solicitors, and the def'ts by Grant, their solicitor,

[50] and the cause is argued by them on the pleadings, evidence, and written admissions of counsel; and thereupon the court doth take the same under advisement, and the cause is continued.

Wednesday, July 7th, 1858.

DAVID WYANT
v.
RUEL C. GRIDLEY et al. } 7 and 13.

This cause coming on now to be heard, and the court not being sufficiently advised in the premises, doth appoint Enoch A. Wood, of Sabula, a special master to inquire and report to this court what consideration David Wyant paid for the land in dispute, and to whom said consideration was paid. Second. What improvements said David Wyant has placed on said premises, and what is the present value thereof. Third. What has been the yearly value of the rents and profits of said land, said David Wyant has taken possession thereof, and what waste (if any) has been committed by him thereon; and that he take evidence thereon and report to the judge of this court in sixty days from this date; and that the master report the testimony, showing to whom said money was paid.

Report of Master.

U. S. District Court, Dubuque.

DAVID WYANT
v.
RUEL C. GRIDLEY and others. }

The undersigned, master appointed in the above entitled cause, begs leave to report, that on the 17 of August, 1858, in pursuance of the notice hereto annexed, the above named parties appeared before me, with their witnesses, and their testimony is reduced to writing as hereto annexed, and from the evidence before me, and the agreement of the parties, I find the following facts, in answer to the matter submitted to me for inquiry.

1st. David Wyant paid as the consideration for the land
[51] in dispute nine hundred dollars on the 6 of June, 1848, which was paid to Wm. B. Beebe, and no part of said money was paid to Sarah Ann Blakely.

2d. That David Wyant has put improvements on said land to the present value of one hundred and fifty dollars.

3. The yearly value of said land has been ninety dollars. From 1848 to 1853 inclusive sixty acres were in cultivation; from 1854 to 1858 inclusive ninety acres of said land were under cultivation.

This would make the total value of the rents from 1848 to 1858, inclusive, the sum of eleven hundred and twenty-five dollars, exclusive of interest on each year's amount.

There has been no waste committed on the premises.

District Court of the United States for Iowa, at Dubuque.

DAVID WYANT
v.
RUEL C. GRIDLEY et al. } In Equity.

The several parties in interest will take notice that I have fixed on Tuesday, the 17th of August, 1858, at the Tremont House, in the town of Sabula, Jackson county, Iowa, as the time and place when I will proceed to examine and report upon the matters referred to me in the above entitled cause by the said court at the July term, 1858. The examination will commence at 9 o'clock a. m., and continue from day to day until concluded.

August 4th, 1858.

E. A. WOOD, *Master.*

I accept service for defendants.

JAS. GRANT.

STATE OF IOWA, *Jackson County.*

I served a copy of this notice on David Wyant, by delivering the same to him on the 6th day of August, 1858.

J. C. DAY, *Constable.*

[52] U. S. District Court, at Dubuque.

DAVID WYANT
v.
RUEL C. GRIDLEY.

Depositions of witnesses produced, sworn, and examined before me, master, appointed for that purpose by said court, at the hotel of Ulysses Steen, in Sabula, on the 7th of August, 1858.

James M. McKinlay appeared for the plaintiff; James Grant appeared for the defendants.

The following facts were admitted by the attorneys:

1st. That David Wyant paid $900 00 for the land in dispute on the 6th of June, 1848, to Wm. B. Beebe; and that no part of said money was paid to Sarah Ann Blakely.

2d. That David Wyant has put in breaking and fencing improvements on the land which are worth one hundred and fifty dollars.

Aaron Wyant and James M. Mills sworn.

Aaron Wyant.

1. Do you know the land in controversy?

Yes, sir.

2. Do you know the worth of rental of said land for several years past?

I shouldn't like to pay over fifty cents an acre, and the highest 75 cents.

The parties admit that there was sixty acres in cultivation at the time Wyant purchased, and that he brought thirty acres more in cultivation in 1853. The fifth crop is taken off the thirty acres this year.

Cross-examination.

1. When land is rented by the crop, what proportion of the crop is it worth?

I have known of but little rented that way. What I have generally heard it is one-third, the owner to keep up the fences. The tenant does nothing but the work.

2. What is the ordinary yield in this neighborhood, with good farming, of corn and wheat?

I suppose it would not run over fourteen bushels, or quite that, wheat—corn yield about thirty-five.

[53] 3. Do you know what has been the average price of wheat and corn for the last ten years?

Wheat would average for the last ten years 50 cents—corn would average 15 cents a bushel.

Re-examination.

1. Is this an ordinary farm?

No, sir.

2. Is it better or worse than ordinary?

It is worse.

Re-cross-examination.

1. Are you any connexion of the pl'ff?

Yes; his brother.

2. What makes this farm worse than an ordinary farm?

It is hilly, and it is the oldest farm here that I know of, I believe.

3. What do you mean by the oldest?

So long broke up.

4. Is the 30 acres last broke worse than ordinary land?

Yes; it is a kind that when broke it washes off.

5. How long have you been in the country?

14 years.

AARON WYANT.

James Mills.

1. Do you know the land in controversy?

Yes; since last fall.

2. How does that land compare with ordinary farms in the neighborhood?

It is worse.

3. Do you know the worth of the rental of that farm this year?

Not more than fifty cents.

4. Do you mean by the acre, in cultivation?
Yes.

Cross-examination.

1. How much worse is it than that of Lewis Carman's, which joins it?
Part of it worse; part of it not much worse; the part next Carman's is new, and better than the other.
[54] 2. Do you mean by new, newly broke?
Yes.
3. Do you rent this land?
Yes.
4. What rent did you agree to pay?
One-third of the crop.
5. How much corn will you get from it?
I don't know; I will be thankful if it yield 25 bushels to the acre, but I don't think it will.
6. If it should yield 25 bushels an acre, and corn be worth 50 cents a bushel, then the corn land would be worth as much as $4 an acre.
Yes; I guess.
7. What proportion of land did you have in corn and how much in wheat?
About 7 acres in corn; about ten in wheat.
8. How much in oats?
About 8 acres.
9. Have you thrashed your wheat?
Not yet.
10. How much will it make to the acre?
I will be thankful if it be 4 bushels to the acre; I don't expect quite that.
11. Has not the wheat and oat crop this year been a failure?
Yes.
12. This year is no test of the ordinary value of the rent of land.
I have been a stranger here, and I don't know.

JAMES MILLS.

O. R. Davis sworn.

1. Do you know the land in controversy; and if so, how long have you known it?
It is about fourteen years since I came here; I have known the place since.
2. Have you ever rented farms in this neighborhood?
I rented thirty acres for three years after I first came here.
[55] 3. Do you know the worth of the rental of the land in controversy since 1848?

I don't know that I do.

4. What has such farms been renting for?

The land I rented, 30 acres, I paid $25 a year for. Such farms have been renting for since at $1 an acre, sometimes a dollar and a half, and I have known places rent as high as $2.

5. Do you know whether this farm is as good as ordinary farms in the neighborhood?

Some parts of the farm are as good as other lands which have been as long cultivated; other parts are not so good as other lands.

Cross-examination.

1. Are you pretty well acquainted with this land?

Yes; I have been living in sight of it every year, except 2 years that I was out of the country.

2. What would be a fair average rent of that land for the last ten years?

I wouldn't agree to pay a cash rent of over 75 cents an acre for it—take it for the last ten years.

3. Is it worse than other lands in the neighborhood—the Precinct farm, for instance?

Yes; it is broken up with ravines, that makes it liable to wash off.

4. What has land rented for in the neighborhood this year?

All I know of is what I rented myself—about 67 acres, for 180 dollars. This was all new land except 20 acres, and that 20 but 2 crops were taken off before I sowed this season.

5. How much is land worth to pay a portion of the crop?

The general rule is one-third of the crop.

6. Has the landlord to go round to put up the fences?

That is according as they make a bargain about it.

7. How much is an ordinary yield of crop in corn, taking one year with another?

[56] An average crop is about 30 bushels to the acre.

8. Of wheat?

15 to 20 bushels.

9. Average prices?

Corn would average about 18 or 20 a bushel—say 20 cents. Wheat would average about 62 cents.

10. At that rate the rent would be in the neighborhood of $2?

Yes.

O. R. DAVIS.

Andrew Smith, sworn.

1. Do you know the land in controversy; and if so, for how long?

I have known it for 12 or 15 years.

2. Do you know the worth of the rental of said land for several years past; how much an acre for the cultivated land?

There has been very poor crops raised on it; I have helped thrash on it; it is very washy, sidling.

3. Do you know anything about the renting of farms in the neighborhood?

Some have in some years rented for $2 and some for $2 50; but for that length of time it would make a difference.

4. Whether would the difference be more or less?

It would be less.

5. Is this land as good as an average in the neighborhood?

Yes, it is as good as some; some of it *as* pretty old.

6. Can't you state what the rental has been worth for the last ten years of that land?

I should think the third of the price I have mentioned would be a fair price to take it for the whole ten years.

Cross-examination.

1. The poor crops on this land have been owing more to poor cultivation than to bad land?

The land I don't consider anything great.

[57] 2. How much corn would it yield to the acre with good cultivation?

Forty bushels, I think, would be a fair crop on an average.

3. How much wheat?

There is a difference as to new and old ground; for the last ten years 15 to 20 bushels would be a fair crop.

4. What has been the average price for wheat, corn, for the last ten years?

Wheat, I think, about 50 cents; corn about 20.

5. What proportion of the crop is land worth generally?

Land is generally called worth a third.

6. Now supposing this land to have averaged 40 bushels of corn, and wheat 15 bushels, and the prices 50 cents and 20 cents, would not the average of rent been at least two dollars an acre?

If every acre was thoroughly cultivated, it might possibly.

ANDREW SMITH.

Lewis Carman, sworn on part of defendants.

1. Do you know the land in controversy?

I have known it about 14 years; I live adjoining to it on the north.

2. What, in your opinion, is the average rent of that land worth for the last ten years per acre? * * *

Some of that land is very light, and would be scarce worth anything to rent it. If I should rent the place myself I should not be willing to pay over $1 50 or $1 25 an acre; that is, to take the

whole 90 acres. Lands have been renting in the neighborhood at two dollars.

3. Is this land any worse than yours that adjoins it?

Ours has been longer in cultivation than it. I will have forty bushels of corn to the acre this year, I believe. I never had

[58] a better prospect of corn on the place than I have this year. My average of wheat has not been over fifteen bushels to the acre.

4. What proportion of the crop usually goes to the landlord?

One-third in the shock.

5. What has been the average price of wheat and corn for the last ten years?

Wheat about 50 cents, corn about 20 cents.

LEWIS CARMAN.

The parties agree that the testimony as to rental has reference to acres in cultivation.

Ulysses Steen, sworn on part of defendants.

1. Do you know the Wyant farm?

I have known it for 21 years; first when Mr. Wood owned it.

2. What is the character and quality of it as a farm compared with those in the neighborhood?

It was reckoned an average good farm; but for the last few years I haven't known it particularly.

3. Have you a farm in the same neighborhood?

I have one about a mile and a half from it.

4. What has the average rent of such a farm been worth for the last ten years?

I had about 100 acres in cultivation, from 80 to 100; and I rented the whole 2 years ago for 1,100 (eleven hundred) bushels of corn delivered in the crib on the farm. Now and before I rented for one-third, delivered in the half bushel. I never rented for a cash rent.

5. What has been the average value of wheat and corn for the last ten years?

Wheat about 75 cents, and about 20 cents for corn; from that to 25.

ULYSSES STEEN.

[59] Sullivan Viall, sworn on part of pl'ff.

1. Do you know the land in controversy?

I do.

2. How long?

For twelve years.

3. Do you know the worth of the rental of that place for the last ten years?

I should think 75 cents an acre.

Cross-examination.

1. What proportion of the crop is land worth?

Generally reckoned worth a third.

2. How much would be raised on that land on an average of the last ten years, with good cultivation?

Wheat, 12 bushels an acre; and corn, perhaps 25 or 30; and oats 25 or 30 bushels.

3. What has been the average price of those crops for the last ten years?

Wheat about 50 or 55 cents; corn about 20 cents, and oats about the same.

4. Then you don't mean to say the land might not be worth more than 75 cents an acre?

That's what I think it would be worth to me.

SULLIVAN VIALL.

DISTRICT OF IOWA,
Town of Sabula.

I, Enoch A. Wood, master, appointed in the case of David Wyant vs. Ruel C. Gridley et al., certify that the foregoing are the depositions of the witnesses examined before me in the matter of the reference, and that the said depositions were reduced to writing and signed by the several witnesses, all in my presence, this 17th day of August, 1858.

E. A. WOOD, *Master.*

[60] *Record Entry.*

January 7th, 1859.

DAVID WYANT
vs.
RUEL C. GRIDLEY et al. } 7 and 13.—Chancery.

This cause having been submitted at a former term, and the court having now fully considered the same, doth order, adjudge and decree as follows, viz:

That the defendants, Ruel C. Gridley, Clarissa H. Beebee, Sarah P. Snyder and Charles Snyder, be, and they are hereby, perpetually enjoined from proceeding with their action at law commenced in this court against said Wyant, concerning the northeast quarter of southeast quarter of section twenty-two, and the northwest quarter of section twenty-six, in township eighty-four north, of range six east, of 5th principal meridian.

Also, that the said defendants shall execute to said David Wyant a conveyance of all title and claim they may have in and to the land described in the bill, to wit, the northeast quarter of southeast quarter of section twenty-two, southwest quarter of northwest quarter of section twenty-six, and north half of northwest quarter of section twenty-six, in township eighty-four north, of range six

east, of 5th principal meridian; and if they fail to execute such deed, then that this decree stand in lieu thereof.

Also that said Wyant have and recover of said defendants the costs of this cause and his costs in said action at law, to be taxed by the clerk, and that execution issue therefor. The def'ts then prayed an appeal to the Supreme Court of the United States, which is allowed to them.

Defendants give notice of appeal; and pl'ff, by McKinley, his counsel, waives any more formal notice of appeal, or bond in this court.

J. M. LOVE, *Judge, &c.*

And then the following agreement was filed:

[61] DAVID WYANT vs. RUEL C. GRIDLEY and others. } Bill in Equity.

It is agreed that Ruel C. Gridley and others may take these causes to the Supreme Court of the United States, without entering a formal notice of appeal or filing any appeal bond, and that all papers used in the cause below shall be transcribed for the use of the court above.

GRANT, *for Gridley and others.*
McKINLAY, *for Wyant.*

Jan., 1859.

Costs of this record $22; paid by appellant.

DISTRICT OF IOWA,
Northern Division.

I, J. C. Burns, clerk of the district court of the United States for the district of Iowa, certify that the foregoing is a true, correct, and examined transcript of the causes therein named, as the same are of record in my office.

[L. S.] Witness my hand and the seal of said court, this 12th day of January, 1859.

J. C. BURNS, *Clerk.*
By M. McLAUGHLIN, *D'y.*

Supreme Court United States.

RUEL C. GRIDLEY and others, Appellants, vs. DAVID WYANT, Appellee. } Appeal in Equity.

The parties in this cause agree that the cause was tried upon the evidence which is set forth in the record, and agreement of counsel set forth in the record, and that upon said hearing, the contracts and deeds referred to in the bill and answer, and depo-